

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

CHARLES DAVID EARWOOD

PETITIONER

VS.

NO. 3:18-CV-00157-BSM/JTR

WENDY KELLEY, Director
Arkansas Department of Correction

RESPONDENT

ORDER

On August 24, 2018, the Court entered an Order directing Petitioner Charles David Earwood (“Earwood”) to do one of two things by September 24, 2018: (1) file a completed Application to Proceed Without Prepayment of Fees and Affidavit (Form AO 240); **or** (2) pay the \$5.00 filing fee. *Doc. 3*.

Following the August 24 Order, Earwood filed two Notices, one on August 30, 2018, and one on August 31, 2018.¹ *Docs. 4 & 5*. In the August 31 Notice, Earwood states that he wishes to “relinquish” the \$5 necessary to proceed with this case. The Notice further states that Earwood does “hereby order the Crittenden County Detention Facility” (“CCDF”), where Earwood is currently being held, to submit these funds to the Court so that this case may proceed. *Doc. 5*. The Court assumes by this filing: (1) that Earwood has the funds necessary to pay the \$5 filing fee necessary to proceed with this habeas action in an account at the CCDF; and (2)

¹ The August 30 Notice relates to the merits of Earwood’s habeas Petition and is not responsive to the Court’s August 24 Order or relevant at this time.

he wants to transfer \$5 to the Clerk of the Court to pay the filing fee. However, Earwood lacks the authority to enter an “Order” directing the CCDF to do anything.

It remains Earwood’s responsibility to ensure that the filing fee is paid so that this case may proceed. Earwood may provide a copy of this Order to officials at the CCDF and request officials there to either: (1) send the \$5 filing fee to the Clerk;² or (2) give Earwood \$5 from his account so that he may do so.³

IT IS THEREFORE ORDERED THAT:

1. The deadline for Earwood to either pay the filing fee or submit a completed Application to proceed *in forma pauperis*, as directed in the Court’s Order filed on August 24, 2018, *Doc. 3*, is hereby extended until **October 5, 2018**.

2. The Clerk of the Court is directed to send Earwood another copy of its August 24, 2018 Order.

DATED THIS 14th day of September, 2018.



UNITED STATES MAGISTRATE JUDGE

² See 28 U.S.C. § 1915(b)(2) (“The agency having custody of the prisoner shall forward payments from the prisoner’s account to the clerk of the court . . . until the filing fees are paid.”).

³ Any payment must clearly indicate that it is for payment of the filing fee in this action, *Earwood v. Kelley*, No. 5:18-CV-00210-JM/JTR.